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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,697	04/05/2001	Michael Baj	74120-301397	4200
35657	7590	03/10/2005	EXAMINER	
FAEGRE & BENSON LLP PATENT DOCKETING 2200 WELLS FARGO CENTER 90 SOUTH 7TH STREET MINNEAPOLIS, MN 55402-3901			PHILPOTT, JUSTIN M	
			ART UNIT	PAPER NUMBER
			2665	
DATE MAILED: 03/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/826,697

Applicant(s)

BAJ, MICHAEL

Examiner

Justin M Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4, 5, 7, 8, 10, 12-14, 16-18 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,707,827 to Shaffer et al.

Regarding claims 1, 10, 16 and 20 Shaffer teaches a method of testing a component in a voice-over-IP network path comprising: sending a digital audio file (e.g., a known signal comprising gain and frequency characteristics, see col. 4, lines 23-53) through the component (e.g., sound card 40 in FIG. 1) to a destination (e.g., processor 32 in computer system 30); recording the digital audio file at the destination (e.g., storing the audio information in a local database or in a registry, see col. 4, lines 11-22); and measuring characteristics of the recording to analyze the component (e.g., determining gain, distortion and frequency characteristics to analyze the sound card, see col. 4, lines 28-40).

Further, regarding claim 10, Shaffer teaches a voice-over-IP network comprising: a source node (e.g., source computer 14, see col. 3, lines 27-33), a path (e.g., network 10) connecting the source node (e.g., source computer 30) through a component (e.g., sound card 40) to a destination node (e.g., processor 32 in the computer 30); and an analyzer (e.g., software, see

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col. 4, lines 28-30) connected to the destination node (e.g., processor 32) to measure characteristics of a digital audio file (e.g., a known signal comprising gain, distortion and frequency characteristics, see col. 4, lines 23-53) received by the destination node (e.g., processor 32) (e.g., see col. 4, lines 23-35).

Further, regarding claim 16, Shaffer teaches a computer program product residing on a computer readable medium, the computer program product comprising instructions that cause the computer to: record a digital audio file (e.g., storing audio information in a local database or in a registry, see col. 4, lines 11-22) received at a destination (e.g., a known signal comprising gain and frequency characteristics received at destination computer 14, see col. 4, lines 23-53), the digital audio file being sent through a component (e.g., sound card 40); and measure the characteristics of the recording to analyze the component (e.g., see col. 4, lines 23-40 regarding measuring gain, distortion and frequency characteristics).

Further, regarding claim 20, Shaffer teaches a computer program product residing on a computer readable medium comprises instructions that cause the computer to: send a digital audio file (e.g., a known signal comprising gain and frequency characteristics, see col. 4, lines 23-53) to a destination (e.g., processor 32 in computer system 30) through a component (e.g., sound card 40); and poll the component (e.g., sound card) for status information (e.g., measuring the gain, frequency and distortion characteristics of the audio signals, see col. 4, lines 23-40).

Regarding claims 2 and 12, Shaffer teaches polling the component (e.g., sound card 40) for status information (e.g., running software to measure the audio signal characteristics, see col. 4, lines 28-40). Further, regarding claim 12, Shaffer teaches polling is by a test tool accessible by the source node (e.g., source computer 30) (e.g., see col. 5, lines 4-8 regarding active mode).

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Regarding claims 4 and 5, Shaffer teaches repeating the sending, recording and measuring (e.g., see col. 4, lines 23-53 regarding sending, recording and measuring performed by both computers).

Regarding claims 7, 8, 13, 14, 17, 18, 21 and 22, Shaffer teaches the component comprises both a software client (e.g., implemented for software measuring function, see col. 4, lines 28-30) and a hardware module (e.g., sound card 40 in FIG. 1).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer in view of U.S. Patent No. 6,570,969 to Albal et al.

Regarding claims 3 and 9, Shaffer teaches the method, system and apparatus discussed above regarding claims 1 and 2, however, may not specifically disclose generating a call history of the component based on the status information or measuring of the recording. Albal also teaches VoIP techniques and, specifically, teaches generating call histories for a plurality of communications (e.g., see col. 1, line 60 – col. 2, line 48). The teachings of Albal provide an improved communication system having call histories for a plurality of communication services (e.g., see col. 1, line 36 – col. 2, line 20). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Albal to Shaffer in order to

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provide an improved communication system having call histories for a plurality of communication services.

5. Claims 6, 15, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer in view of U.S. Patent Application Publication No. US 2003/0009306 A1 by Fang.

Regarding claims 6, 15, 19 and 23, Shaffer teaches the method, system and apparatus discussed above regarding claims 1, 10, 16 and 20, however, may not specifically disclose the audio file is a WAV file. Fang also teaches VoIP techniques and, specifically, teaches it is well known in the art for an audio file to comprise a WAV format (e.g., see paragraph 0026). The teachings of Fang provide improved diagnosis for a VoIP network (e.g., see paragraph 0007). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to utilize a WAV format for the audio file in Shaffer, since Fang teaches it is well known in the art to utilize an audio file comprising a WAV format and since Fang provides improved diagnosis for the network.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer in view of U.S. Patent No. 6,437,229 to Nobumoto.

Regarding claim 11, Shaffer teaches the method, system and apparatus discussed above regarding claim 10, however, may not specifically disclose the digital audio file is contained in a digital audio store. Nobumoto also teaches a system utilizing digital audio communications and, specifically, teaches digital audio communications are contained in a digital audio store (e.g., see col. 2, lines 43-50 regarding digital music server). The teachings of Nobumoto provide a single

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computer access to a plurality of digital music files with reduced cost (e.g., see col. 2, lines 22-40). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Nobumoto to that of Shaffer in order to provide computer access to a plurality of digital music files with reduced cost.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,404,764 to Jones et al. Discloses a VoIP telephone system and method, and U.S. Patent No. 6,862,298 to Smith et al. Discloses an adaptive jitter buffer for Internet telephony.

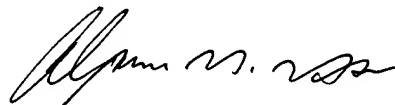
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Justin M Philpott



**ALPUS H. HSU**  
**PRIMARY EXAMINER**